

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  2003 TELECOMMUNICATIONS COMPETITION SURVEY FOR RETAIL LOCAL VOICE SERVICES	DOCKET NO. WRU-03-49
--	----------------------

**ORDER DESCRIBING CONFIDENTIALITY PROCEDURES AND  
GRANTING WAIVER OF 199 IAC 1.9(6)**

(Issued August 19, 2003)

On August 4, 2003, the Utilities Board (Board) distributed the "2003 Telecommunications Competition Survey for Retail Local Voice Service" to approximately 280 companies providing telecommunications services to Iowa consumers. Surveys were delivered to local exchange carriers, local service resellers, a cable operator, and wireless carriers that may be providing retail local service as part of their service products. The survey requests information that will help the Board assess the status of local exchange service competition in Iowa, including access line information, on an individual company basis. The Board understands that many carriers may consider this to be confidential information, the release of which would give advantage to their competitors.

The Board's final report will not discuss, or include, individual company confidential information. Rather, it will include aggregated information and other

information in a format such that it will not be possible to reconstruct company-specific confidential information.

The Board, on its own motion, will consider the information provided by each company related to actual counts of retail local service connections to be confidential pursuant to Iowa Code § 22.7(6), which provides confidential treatment for public records which are reports to government agencies and which, if released, would give advantage to competitors and would serve no public purpose. The Board finds specific line count information, sought by its survey, to be either company-specific market information or company-specific customer information provided to the Board as a report to a governmental agency, the release of which would provide advantage to competitors. The Board cautions that a company seeking to have held confidential other types of information will need to follow the requirements of 199 IAC 1.9(6) and file a separate request, with an accompanying affidavit, for each filing of confidential information.

The Board, on its own motion, finds that the provisions of 199 IAC 1.9(6) should be waived for the specific line count information discussed above. Rule 199 IAC 1.3 establishes the standards for waiver of a Board rule. The Board finds that the circumstances of its request for these survey responses meet the standards for waiving 199 IAC 1.9(6) and granting confidential treatment to the company-specific line count information.

The information is to be provided by approximately 280 companies. To require a separate request for confidential treatment from each company, and a

separate order responding to each request, would be a waste of resources. The Board finds that no party will be prejudiced by the grant of this waiver and there is no statutory mandate for applying the rule in this instance. Finally, substantially equal (or better) protection of the public health, safety, and welfare will be afforded by means of the Board's final report.

The Board, in issuing this order for confidential treatment, is specifically waiving the provisions of 199 IAC 1.9(6) that require the filing of a separate request and an affidavit for each filing of confidential information. Additionally, the Board finds that the provisions of the rule that require the confidential information to be physically separated and each page to be clearly marked as confidential are not applicable for the limited purpose of collection of survey information. Instead, the Board will simply treat all individual company line count information as confidential.

In issuing this order for confidential treatment, the Board is not waiving the provisions of 199 IAC 1.9(8)"b"(3) that set out the procedures for requesting the release of the confidential information which are trade secrets or reports to a government agency. Any party may request the release of information designated as confidential pursuant to the blanket order and the Board will allow the party claiming confidentiality to seek a court order to prevent the disclosure, as specified in the rules.

**IT IS THEREFORE ORDERED:**

1. The provisions of 199 IAC 1.9(6), requiring the filing of a separate attached request for confidential treatment and the affidavit of a corporate officer with

the confidential information, are waived for purposes of company-specific line count information that is supplied in response to the "2003 Telecommunications Competition Survey for Retail Local Voice Services" distributed by the Utilities Board on August 4, 2003.

2. The information filed pursuant to the waiver granted in this order shall be held confidential by the Board subject to the provisions of 199 IAC 1.9(8)"b"(3).

3. The Board directs the Executive Secretary to cause this order to be delivered to each company that was provided with a 2003 Telecommunications Competition Survey. The order should be delivered in the same manner as the survey was delivered to the individual company. Those companies that received the survey via electronic mail should be provided a copy of this order electronically.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 19<sup>th</sup> day of August, 2003.